

CHAPTER 882
Earned Income Tax

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CROSS REFERENCES

Power to levy income tax - see Ohio Const., Art. XVIII, §3
 Approval of electors re income tax - see CHTR. Art. I, §3
 Payroll deductions - see Ohio R.C. 9.42
 Municipal income taxes - see Ohio R.C. Ch. 718

882.01 PURPOSE.

To provide funds for the purposes of general Municipal functions of the Village, there is hereby levied a tax on all salaries, wages, commissions and other compensation, and on net profits, as hereinafter provided.

(Ord. 1969-66. Passed 8-14-69.)

882.02 DEFINITIONS.

As used in this chapter:

- (a) "Administrator" means the individual designated to administer and enforce the provisions of the Village income tax.
- (b) "Association" means any partnership, limited partnership or any other form of unincorporated enterprise, owned by two or more persons.
- (c) "Board of Review" means the Board created by and constituted as provided in Section 882.15.
- (d) "Business" means any enterprise, activity, profession or undertaking of any nature, conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity, excluding, however, all nonprofit corporations which are exempt from the payment of Federal income tax.
- (e) "Corporation" means a corporation or joint stock association organized under the laws of the United States, the State of Ohio or any other state, territory or foreign country or dependency.
- (f) "Employee" means one who works for wages, salary, commission or other type of compensation in the service of an employer.

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- (g) "Employer" means an individual, partnership, association, corporation, government body, unit or agency or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission or other basis of compensation.
- (h) "Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31.
- (i) "Gross receipts" means the total income from any source whatsoever.
- (j) "Net profits" means a net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary and necessary expenses, either paid or accrued in accordance with the accounting system used by the taxpayer for Federal income tax purposes, without deduction of taxes imposed by this chapter, or of Federal, State and other taxes on income, and, in the case of an association, without deduction of salaries paid to partners and other owners.
- (k) "Nonresident" means an individual domiciled outside the Village.
- (l) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the Village.
- (m) "Person" means every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, the term "person", as applied to any unincorporated entity, means the partners or members thereof, and as applied to corporations, the officers thereof.
- (n) "Place of business" means any bona fide office (other than a mere statutory office), factory, warehouse or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his or her regular employees regularly in attendance.
- (o) "Resident" means an individual domiciled in the Village.
- (p) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the Village.
- (q) "Taxable income" means wages, salaries and other compensation paid by an employer or employers before any deductions, and/or the net profits from the operation of a business, profession or other enterprise or activity, adjusted in accordance with the provisions of this chapter.
- (r) "Taxable year" means the calendar year or the fiscal year upon the basis of which the net profits are to be computed under this chapter, and, in the case of a return for a fractional part of a year, the period for which such return is required to be made.
- (s) "Taxpayer" means a person, whether an individual, partnership, association, corporation or other entity, required under this chapter to file a return or pay a tax.
(Ord. 1969-66. Passed 8-14-69.)

882.03 IMPOSITION OF TAX.

An annual tax for the purposes specified in Section 882.01 shall be imposed on and after October 1, 2002, at the rate of 2% per year upon the following:

- (a) All salaries, wages, commissions and other compensation earned on and after October 1, 2002, by residents of the Village;
- (b) All salaries, wages, commissions and other compensation earned on and after October 1, 2002, by nonresidents of the Village for work done or services performed or rendered within the Village;
- (c) The portion attributable to the Village of the net profits earned on and after October 1, 2002, of all resident unincorporated business entities or professions or other activities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the Village;
- (d) The portion of the distributive share of the net profits earned on and after October 1, 2002, of a resident partner or owner of a resident unincorporated business entity not attributable to the Village and not levied against such unincorporated business entity by the Village;
- (e) The portion attributable to the Village of the net profits earned on and after October 1, 2002, of

all nonresident unincorporated business entities, professions or other activities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the Village, whether or not such unincorporated business or entity has an office or a place of business in the Village;

- (f) The portion of the distributive share of the net profits earned on and after October 1, 2002, of a resident partner or owner of a nonresident unincorporated business entity not attributable to the Village and not levied against such unincorporated business entity; and
- (g) The portion attributable to the Village of the net profits earned on and after October 1, 2002, of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in the Village, whether or not such corporations have an office or a place of business in the Village.

(Ord. 1990-93. Passed 11-15-90; Ord. 2002-119. Passed 9-11-02.)

882.04 EFFECTIVE PERIOD.

The Village income tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation, and with respect to the net profits of businesses, professions or other activities, earned on and after January 1, 1970.

(Ord. 1969-66. Passed 8-14-69.)

882.05 DETERMINATION OF ALLOCATION OF TAX.

(a) Method of Determination. In the taxation of income which is subject to Village income taxes, if the books and records of a taxpayer conducting a business or profession both within and without the boundaries of the Village disclose with reasonable accuracy what portion of its net profits is attributable to that part of the business or profession conducted within the boundaries of the Village, then only such portion shall be considered as having a taxable situs in the Village for the purposes of Municipal income taxation. The portion of the entire net profits of a taxpayer to be allocated as having been derived from within the Village, in the absence of actual records thereof, shall be determined as follows:

Multiply the entire net profits by a business allocation percentage to be determined by a three-factor formula of property, payroll and sales, each of which shall be given equal weight, as follows:

- (1) The average net book value of the real and tangible personal property owned or used by the taxpayer in the business or profession in the Village during the taxable period to the average net book value of all the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

As used in the preceding paragraph, real property includes property rented or leased by the taxpayer. The value of such property shall be determined by multiplying the annual rental thereon by eight.

- (2) Wages, salaries and other compensation paid during the taxable period to persons employed in the business or profession for services performed in the Village to wages, salaries and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed.
- (3) Gross receipts of the business or profession from sales made and services performed during the taxable period in the Village to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

In the event that the foregoing allocation formula does not produce an equitable result, another basis may, under uniform regulations, be substituted so as to produce such result.

(b) **Sales Made in the Village.** As used in subsection (a) hereof, "sales made in the Village" means:

(1) All sales of tangible personal property which is delivered within the Village regardless of where title passes, if shipped or delivered from a stock of goods within the Village;

(2) All sales of tangible personal property which is delivered within the Village, regardless of where title passes, even though transported from a point outside the Village, if the taxpayer

is regularly engaged through its own employees in the solicitation or promotion of sales within the Village and the sales result from such solicitation or promotion; and

(3) All sales of tangible personal property which is shipped from a place within the Village to purchasers outside of the Village, regardless of where title passes, if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

(c) Total Allocation. Add together the percentages determined in accordance with subsection (a) hereof, or such of the aforesaid percentages as are applicable to the particular taxpayer, and divide the total so obtained by the number of percentages used in deriving the total in order to obtain the business allocation percentage referred to in subsection (a) hereof.

A factor is applicable even though it may be allocable entirely in or outside the Village. (Ord. 1969-66. Passed 8-14-69.)

(d) Rentals.

(1) Rental income received by a taxpayer shall be included in the computation of net profits from business activities under Section 882.03, only if and to the extent that the rental, ownership, management or operations of the real estate from which such rentals are derived, whether so rented, managed or operated by a taxpayer individually or through his or her agent or other representative, constitutes a business activity of the taxpayer in whole or in part.

(2) Where the gross monthly rental of any and all real properties, regardless of the number and value, aggregates in excess of two hundred fifty dollars (\$250.00) per month, it shall be prima-facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental property shall be subject to tax, provided that in the case of commercial property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of the gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds two hundred fifty dollars (\$250.00) per month, and provided, further, that in case of farm property, the owner shall be considered engaged in a business activity when he or she shares in crops or when the rental is based on a percentage of the gross or net receipts derived from the farm, whether or not the gross income exceeds two hundred fifty dollars (\$250.00) per month, and provided, further, that a person who operates a licensed rooming house shall be considered in business whether or not the gross income exceeds two hundred fifty dollars (\$250.00) per month. (Ord. 1971-99. Passed 12-8-71.)

(e) Operating Loss-Carry Forward.

(1) The operation of a net operating loss sustained in any taxable year subsequent to January 1, 1970, allocable to the Village, may be applied against the portion of the profit of succeeding tax years allocable to the Village until exhausted, but in no event for more than five taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year.

(2) The portion of net operating loss sustained shall be allocated to the Village in the same manner as provided herein for allocating net profits to the Village.

(3) The Administrator shall provide, by rules and regulations, the manner in which such net operating loss-carry forward shall be determined. (Ord. 1969-66. Passed 8-14-69.)

882.06 EXEMPTIONS; SOURCES OF INCOME NOT TAXED.

The tax provided for herein shall not be levied on the following:

(a) Pay or allowances of active members of the Armed Forces of the United States, or the income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities.

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(b) Poor relief, unemployment insurance benefits, old age pensions or similar payments, including disability benefits received from local or state governments or the Federal government or charitable, religious or educational organizations.

(c) Proceeds of insurance paid by reason of the death of the insured, and pensions, disability benefits, annuities or gratuities not in the nature of compensation for services rendered, from whatever source derived.

(d) Receipts from seasonal or casual entertainment, amusements, sports events and health and welfare activities when any such are conducted by bona fide charitable, religious or educational organizations and associations.

(e) Alimony received.

(f) Personal earnings of any natural person under eighteen years of age.

(g) Compensation for personal injuries or for damage to property by way of insurance or otherwise.

(h) Interest, dividends and other revenue from intangible property.

(i) Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations, items of income already taxed by the State from which the Village is specifically prohibited from taxing, and income of a decedent's estate during the period of administration, except such income from the operation of a business.

(j) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the United States Constitution or any act of Congress limiting the power of the states or their political subdivisions to impose net income taxes on income derived from interstate commerce.

(k) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the Constitution of the State or any act of the Ohio General Assembly limiting the power of the Village to impose net income taxes. (Ord. 1969-66. Passed 8-14-69.)

882.07 RETURNS.

(a) When Return Required to be Made. Each taxpayer shall, whether or not a tax is due thereon, make and file a return on or before April 30 of the year following the effective date of this chapter (Ordinance 1969-66, passed August 4, 1969), and on or before April 30 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within four months from the end of such fiscal year or period.

(Ord. 1971-99. Passed 12-8-71.)

(b) Form and Content of Return. The return shall be filed with the Administrator on a form or forms furnished by or obtainable upon request from such Administrator setting forth:

(1) The aggregate amounts of salaries, wages, commissions and other compensation earned and gross income from business, profession or other activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to the tax;

(2) The amount of tax imposed by this chapter on such earnings and profits; and

(3) Such other pertinent statements, information returns or other information as the Administrator may require.

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(c) Extension of Time for Filing Returns. The Administrator may extend the time for filing of the annual return upon the request of the taxpayer for a period not to exceed six months, or one month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the Federal Income Tax Return. The Administrator may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon, by the date the return is normally due. No penalty or interest shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended.

(d) Consolidated Returns.

(1) Filing of consolidated returns may be permitted or required in accordance with rules and regulations prescribed by the Administrator.

(2) In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within the Village constituting a portion only of its total business, the Administrator shall require such additional information as he or she may deem necessary to ascertain whether net profits are properly allocated to the Village. If the Administrator finds that net profits are not properly allocated to the Village by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates or transactions with such division, branch, factory, office, laboratory or activity, or by some other method, he or she shall make such allocations as he or she deems appropriate to produce a fair and proper allocation of net profits to the Village.

(e) Amended Returns.

(1) Where necessary, an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements, limitations or both, contained in Sections 882.11 and 882.12. Such amended returns shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

(2) Within three months from the final determination of any Federal tax liability affecting the taxpayer's Village tax liability, such taxpayer shall make and file an amended Village return showing income subject to the Village tax based upon such final determination of Federal tax liability and pay any additional tax shown due thereon or make claim for refund of any overpayment.

(Ord. 1969-66. Passed 8-14-69.)

882.08 PAYMENT OF TAX.

(a) Payment of Tax on Filing of Return.

(1) The taxpayer making a return shall, at the time of filing thereof, pay to the Administrator the amount of taxes shown as due thereon, provided, however, that:

- A. Where any portion of the tax so due has been deducted at the source pursuant to the provisions of division (b) of this section;
- B. Where any portion of the tax has been paid by the taxpayer pursuant to the provisions of division (c) of this section; and
- C. Where an income tax has been paid on the same income to another municipality.

Credit for the amount so deducted or paid, or credit to the extent provided for in Section 882.12, shall be deducted from the amount shown to be due, and only the balance, if any, shall be due and payable at the time of filing the return.

(2) A taxpayer who has overpaid the amount of tax to which the Village is entitled under the provisions of this chapter may have such overpayment applied against any subsequent liability hereunder, or, at his or her election indicated on the return, such overpayment, or part thereof, shall be refunded, provided that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded.

(Ord. 1971-99. Passed 12-8-71.)

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(b) Collection at Source.

- (1) In accordance with the rules and regulations prescribed by the Administrator, each employer within or doing business within the Village shall deduct, at the time of payment of any salary, wage, commission or other compensation, the tax of 1.5% per year for the year 1991 and thereafter until September 1, 2002, and 2% per year from October 1, 2002 and thereafter, of the gross salaries, wages, commissions or other compensation due by the employer or the employee and shall, on or before the last day of each month, make a return and pay to the Administrator the amount of taxes so deducted during the previous month, provided, however, that if the amount of the tax so deducted by an employer in any one month is less than one hundred dollars (\$100.00), the employer may defer the filing of a return and the payment of the amount deducted until the last day of the month following the end of the calendar quarter in which such month occurred.
- (2) Such returns shall be on a form or forms prescribed or acceptable to the Administrator and shall be subject to the rules and regulations prescribed therefor by the Administrator. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have in fact been withheld.
- (3) Such employer in collecting the tax shall be deemed to hold the same, until payment is made by such employer to the Village, as a trustee for the benefit of the Village and any such tax collected by such employer from his or her employees shall, until the same is paid to the Village, be deemed a trust fund in the hands of such employer.
- (4) No person shall be required to withhold the tax on wages or other compensation paid to domestic servants employed by him or her exclusively in or about such person's residence, even though such residence is in the Village, but such an employee shall be subject to all of the requirements of this chapter.

(Ord. 1971-99. Passed 12-8-71; Ord. 1990-93. Passed 11-15-90; Ord. 2002-119. Passed 9-11-02.)

(c) Declaration and Payment of Income Tax Not Collected at Source.

- (1) Any person whose income tax is not fully withheld in the Village or in another municipality in which taxes are withheld at a rate the same as or higher than the rate provided in Section 882.03 shall file a declaration setting forth estimated taxable income, including distributive shares of net profits of unincorporated business entities estimated to be earned by the taxpayer during the current tax year, less:
 - A. The tax withheld within the Village; and
 - B. The tax credit allowed in Section 882.12.
- (2) If the estimated tax for the current year, less the tax to be withheld and less such tax credit, amounts to not more than ten dollars (\$10.00), no declaration or payment of estimated tax is required.
- (3) Such declaration of estimated tax to be paid shall be accompanied by a payment of at last one-fourth of the estimated annual tax, and at least a similar amount shall be paid on or before the last day of the seventh and tenth months after the beginning of the taxable year, and on or before the last day of the first month of the succeeding year following the taxable year, provided, however, that in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

(Ord. 1973-81. Passed 11-14-73.)

(d) Filing a Declaration.

- (1) The declaration required by division (c) of this section shall be filed on or before April 30 of each year during the effective period set forth in Section 882.04, or within four months of the date the taxpayer becomes subject to tax for the first time.

- (2) Those taxpayers reporting on a fiscal year basis shall file a declaration within four months after the beginning of each fiscal year or period.
(Ord. 1969-66. Passed 8-14-69.)

(e) Form of Declaration.

(1) The declaration required by subsection (c) hereof shall be filed upon a form furnished by or obtainable from the Administrator. As provided in subsection (c) hereof, credit shall be taken for the Cuyahoga Heights tax to be withheld from any portion of such income and credit shall be taken for tax to be paid or withheld and remitted to another taxing municipality, in accordance with the provisions of Section 882.12.

(2) The original declaration or any subsequent amendment thereof may be increased on or before any subsequent quarterly payment date as provided for herein.

(f) Payment to Accompany Declaration. Such declaration of estimated tax to be paid to the Village shall be accompanied by a payment of at least one-fourth of the estimated annual tax and at least a similar amount shall be paid on or before the last day of the sixth and ninth months after the beginning of the taxable year, and on or before the last day of the first month of the succeeding year following the taxable year. However, in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment date or dates.

(g) Annual Return. On or before the last day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the Village shall be paid therewith in accordance with the provisions of subsection (a) hereof. However, any taxpayer may file, on or before the last day of the first month of the year following that for which such declaration or amended declaration was filed, an annual return and pay any balance due at such time in lieu of filing such declaration or an amended declaration, and in lieu of paying the final quarterly installment based upon a declaration or amended declaration of estimated tax.
(Ord. 1971-99. Passed 12-8-71.)

882.09 INTEREST AND PENALTIES.

(a) Interest on Unpaid Tax. All taxes imposed, all moneys withheld or required to be withheld by employers and all installments of estimated taxes required to be paid under the provisions of this chapter and remaining unpaid after they become due shall bear interest at the rate of six percent per annum.

(b) Penalties on Unpaid Tax. In addition to interest as provided in subsection (a) hereof, penalties based on the unpaid tax or installments of estimated tax are hereby imposed as follows:

(1) For failure to pay taxes or estimated taxes due, other than taxes withheld: ten percent per annum, but not less than five dollars (\$5.00).

(2) For failure to remit taxes withheld from employees: ten percent per month or fraction thereof, but an accumulated penalty shall not exceed fifty percent of any unpaid amount and shall not be less than five dollars (\$5.00).

(Ord. 1971-99. Passed 12-8-71.)

(c) Exceptions. A penalty shall not be assessed on an additional tax assessment made by the Administrator when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Administrator. In the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a Federal audit, provided that an amended return is filed and the additional tax is paid within three months after a final determination of the Federal tax liability. (Ord. 1969-66. Passed 8-14-69.)

(d) Abatement of Interest and Penalties. Either the Administrator or the Board of Review may abate

a penalty or interest, or both, for good cause shown.
(Ord. 1971-99. Passed 12-8-71.)

882.10 VIOLATIONS.

(a) No person shall:

- (1) Fail, neglect or refuse to make any return or declaration required by this chapter;
- (2) Make any incomplete, false or fraudulent return;
- (3) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter;
- (4) Fail, neglect or refuse to withhold the tax from his or her employees or remit such withholding to the Administrator;
- (5) Refuse to permit the Administrator or any duly authorized agent or employee to examine the books, records, papers and Federal Income Tax Returns relating to the income or net profits of a taxpayer;
- (6) Fail to appear before the Administrator and to produce his or her books, records, papers or copies of Federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Administrator;
- (7) Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer;
- (8) Fail to comply with the provisions of this chapter or any order or subpoena of the Administrator authorized hereby;
- (9) Give to an employer false information as to his or her true name, correct Social Security number and residence address, or fail to promptly notify an employer of any change in his or her residence address and the date thereof;
- (10) Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and Village tax withheld, or knowingly give the Administrator false information; or
- (11) Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter.

(Ord. 1969-66. Passed 8-14-69.)

(b) All prosecutions under this section must be commenced within the periods provided for in Ohio R.C. 718.06. (Adopting Ordinance)

(c) The failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him or her from making any information return, return or declaration, from filing such form or from paying the tax. (Ord. 1969-66. Passed 8-14-69.)

882.11 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.

(a) Unpaid Taxes Recoverable as Other Debts. All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable. Except in the case of fraud, of omission of a substantial portion of income subject to the tax or failure to file a return, an additional assessment shall not be made after three years from the time the return was due or filed, whichever is later, provided, however, that in those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the Federal statute of limitation, the period within which an additional assessment may be made by the Administrator shall be one year from the time of the final determination of the Federal tax liability.

(b) Refunds of Taxes Erroneously Paid. Taxes erroneously paid shall not be refunded unless a claim for refund is made within three years from the date on which such payment was made or the return was due, or within three months after final determination of the Federal tax liability, whichever is later.

(c) Amounts of Less Than One Dollar. Amounts of less than one dollar (\$1. 00) shall not be collected or refunded.

(Ord. 1969-66. Passed 8-14-69.)

882.12 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

(a) When taxable income of a resident of the Village is subject to a municipal income tax in another municipality or in a Joint Economic Development District created pursuant to Ohio R.C. 715.70, as amended, on the same income taxable under this chapter, such resident shall be allowed a credit of the amount of income tax paid on such taxable income to such other municipality, equal to 100 percent of the amount obtained by multiplying the lower of the tax rate of such other municipality or of the Village by the taxable income earned in or attributable to the municipality of employment or business activity. For purposes of this section, taxable income includes the distributive share of net profits of a resident partner or owner of an unincorporated business entity.

(b) A claim for credit or refund under this section shall be made in such manner as the Administrator may by regulation provide. If a Village resident fails, neglects or refuses to file an annual return or declaration on the form prescribed by the Administrator, he or she shall not be entitled to such credit or refund and shall be considered in violation of this chapter for failure to file a return.

(Ord. 1995-51. Passed 4-12-95.)

882.13 ALLOCATION OF FUNDS.

(a) The funds collected under the provisions of this chapter shall be disbursed in the following manner:

(1) Such part thereof as shall be necessary to defray all expenses of collecting the tax and of administering and enforcing the provisions of this chapter shall be paid.

(2) The balance remaining after payment of the expenses referred to in paragraph (a)(1) hereof shall be deposited into the General Fund for Municipal purposes.

(Ord. 1969-66. Passed 8-14-69.)

(b) It is hereby declared that one-quarter of one percent of the proceeds of the Municipal income tax shall be utilized for capital improvement projects within the Village. Said funds shall accrue in a separate Capital Improvement Projects Fund which shall not exceed four million dollars (\$4,000,000).

(Ord. 1996-57. Passed 4-10-96.)

882.14 DUTIES AND POWERS OF ADMINISTRATOR.

(a) Duty to Receive Tax Imposed. It shall be the duty of the Administrator to receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers, to keep an accurate record thereof and to report all moneys so received.

(b) Duty to Enforce Collection. It shall be the duty of the Administrator to enforce payment of all taxes owing to the Village, to keep accurate records for a minimum of five years showing the amount due from each taxpayer required to file a declaration and make any return, or both, including taxes withheld, and to show the dates and amounts of payments thereof.

(c) Authority to Make and Enforce Regulations. The Administrator is hereby charged with the enforcement of the provisions of this chapter and is hereby empowered, subject to the approval of the Board of Review, to adopt, promulgate and enforce rules and regulations pertaining to the collection of taxes and the administration and enforcement of the provisions of this chapter, including provisions for the re-examination and correction of returns.

(d) Authority to Arrange Installment Payments. The Administrator is authorized to arrange for the

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payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has proved to the Administrator that, due to certain hardship conditions, he or she is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him or her under this chapter.

Failure to make any deferred payment when due shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Sections 882.09 and 882.11(a) shall apply.

(e) Authority to Determine Amount of Tax Due. In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Administrator may determine the amount of tax appearing to be due the Village from the taxpayer and shall send to such taxpayer a written instrument showing the amount of tax so determined, together with interest and penalties thereon, if any.

(f) Authority to Make Investigations. The Administrator, or any authorized employee, is hereby authorized to examine the books, papers, records and Federal Income Tax Returns of any employer or of any taxpayer or person subject to, or whom the Administrator believes is subject to, the provisions of this chapter, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due under this chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish, upon written request by the Administrator, or his or her duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

(g) Authority to Compel Production of Records. The Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before him or her and may examine such person under oath concerning any income which was or should have been returned for taxation or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and Federal Income Tax Returns and the attendance of all persons before him or her, whether as parties or witnesses, whenever he or she believes such persons have knowledge of such income or information pertinent to such inquiry.

(h) Refusal to Produce Records. The refusal to produce books, papers, records and Federal Income Tax Returns, the refusal to submit to such examination by any employer or person subject or presumed to be subject to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax, or the failure of any person to comply with the provisions of this chapter or with an order or subpoena of the Administrator authorized hereby shall be deemed a violation of this chapter, punishable as provided in Section 882.99.

(i) Confidential Nature of Information Obtained Any information gained as a result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential, except for official purposes or in accordance with a proper judicial order. No person shall divulge such information in violation of this section.

(j) Taxpayer Required to Retain Records. Every taxpayer shall retain all records necessary to compute his or her tax liability for a period of five years from the date his or her return is filed or the withholding taxes are paid.

(Ord. 1969-66. Passed 8-14-69.)

(k) Authority to Contract for Central Collection Facilities. Cuyahoga Heights has entered into an agreement for the establishment of a Regional Council of Governments pursuant to Ordinance 1971-37, passed May 26, 1971, which Council has organized a municipal tax collection agency known as the

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Regional Income Tax Agency. The Board of Trustees of the Regional Income Tax Agency is authorized to administer and enforce the provisions of this chapter as the agent of Cuyahoga Heights, and the duties and authority of the Administrator hereunder may be performed by the Board of Trustees of the Agency through the Administrator of the Agency. However, the Administrator of the Agency shall have no authority to abate penalties or interest provided for in Section 882.09(a) and (b). (Ord. 1971-99. Passed 12-8-71.)

(l) Authority to Contract for Service. In the event the Administrator on behalf of the Village, enters into an agreement with any other municipal corporation to act as an agent of the Village for the purpose of administering the income tax laws of the Village and providing a central facility for the collection of the income tax, as provided in subsection (k) hereof, then all or a part of the duties and authority of the Administrator may be assigned by such agreement to such other municipal corporation. (Ord. 1969-66. Passed 8-14-69.)

882.15 BOARD OF REVIEW.

(a) Establishment; Composition; Confidentiality. A Board of Review, consisting of the Village Clerk or an employee of the Village or other person designated by him or her, the Solicitor or an Assistant Solicitor designated by him or her, and a member of Council to be elected by that body, is hereby created. The Board shall select, each year, for a one-year term, one of its members to serve as Chairperson and one to serve as Secretary. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board may be conducted privately and the provisions of Section 882.14(i), with reference to the confidential character of information required to be disclosed by this chapter, shall apply to such matters as may be heard before the Board on appeal.

(b) Duties and Authority. All rules and regulations and amendments or changes thereto, which are adopted by the Administrator under the authority conferred by this chapter, must be approved by the Board of Review before the same become effective. The Board shall hear and pass on appeals from any ruling or decision of the Administrator and, at the request of the taxpayer or Administrator, is empowered to substitute alternative methods of allocation.

(c) Right of Appeal. Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by this chapter may appeal therefrom to the Board of Review within thirty days from the announcement of such ruling or decision by the Administrator, and the Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof. (Ord. 1969-66. Passed 8-14-69.)

882.16 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

(a) This chapter shall continue effective, insofar as the levy of taxes is concerned, until repealed, and, insofar as the collection of taxes levied hereunder and actions and proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, until all of the taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of taxes or for the punishment of violations of this chapter have been fully terminated, subject to the limitations contained in Sections 882.10 and 882.11.

(b) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Sections 882.07(a) and 882.08(b) as though the same were continuing.
(Ord. 1969-66. Passed 8-14-69.)

882.17 REGISTRATION OF CONTRACTORS.

Any contractor or subcontractor whose place of business is not situated in the Village, applying for a permit to do building, reconstruction, construction or remodeling, shall, when applying for such a permit, register with the Village Income Tax Administrator such contractor's or subcontractor's name, place of business and the name of the person or persons to whom correspondence shall be directed. The Building Commissioner shall not issue any building permit until the contractor or subcontractor has registered with the Village Income Tax Department as required by this section.
(Ord. 1974-66. Passed 7-18-74.)

882.18 SEPARABILITY.

If any section, subsection, paragraph, sentence or clause of this chapter, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such section, subsection, paragraph, sentence or clause of this chapter and shall not affect or impair any of the remaining sections, subsections, paragraphs, sentences or clauses of this chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid section, subsection, paragraph, sentence or clause not been included herein.
(Ord. 1969-66. Passed 8-14-69.)

882.99 PENALTY.

(a) Whoever violates any of the provisions of this chapter, for which no penalty is otherwise provided, is guilty of a misdemeanor of the first degree and shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

(b) In addition to the penalty set forth in subsection (a) hereof, whoever violates Section 882.14(i) shall be guilty of an offense punishable by immediate dismissal.